(Spl. - H.C.A.S. C.D., 78-e)
FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF BOMBAY AT GOA
PANAJI – GOA
APPELLATE SIDE
MISC. CIVIL APPLICATION NO. 790/2004
IN
FIRST APPEAL NO. 18/2003

Office Notes, Office Memoranda of Quorum appearances, Court's orders, or directions and Registrar's orders.	Court's or Judge's Orders.

Mr. E. Afonso, Advocate for the applicants.

Mr. A.F. Diniz, Advocate for the respondents.

CORAM : A.P. LAVANDE, J.

DATE : 11th March, 2005.

P.C.

The applicants/appellants have filed the application dated 22.9.2004 seeking leave of this Court to produce three sale deeds and an award passed by the reference Court dated 15.3.2004 in Land Acquisition Case No.209/96. According to the appellants, the said sale deeds could not be produced before the reference Court as the certified copies of the same could be obtained only on 5.7.2004. In so far

as Award dated 15.3.2004 is concerned, it is the case of the applicants that the same is with reference to the land bearing Survey No.312(part) which is adjoining the acquired land and which was also acquired by the same Notification.

2. The learned Counsel seeks leave to produce these documents under Order 41, Rule 27 of C.P.C. In so far as the sale deeds are concerned, it is not the case of the appellants that they were precluded from producing the same before the reference Court and, as such, in my view, the appellants cannot be permitted to produce the said sale deeds at the appellate stage inasmuch as none of the predicates under Order 41, Rule 27 of C.P.C. is attracted in the present case. In so far as Award dated 15.3.2004 is concerned, I am unable to

permit the applicants to rely and produce the same because it is an award passed by the reference Court and not by this Court and secondly, as rightly submitted by Mr. Diniz, learned Counsel appearing for the respondents, which is not disputed by the learned Counsel for the appellants, that there is an appeal pending against the same in this Court. As such, in my opinion, the said Award also cannot be relied upon by the appellants in the present case and, therefore, it is not a fit case in which the appellants should be permitted to produce the said sale deeds and the Award in the present appeal. Accordingly, I find no merit in the present application and, therefore, the same is dismissed.

A.P. LAVANDE, J.

ssm